



6712-01

FEDERAL COMMUNICATIONS COMMISSION

Privacy Act of 1974; System of Records.

AGENCY: Federal Communications Commission.

ACTION: Notice of a modified System of Records.

SUMMARY: The Federal Communications Commission (FCC or Commission or Agency) has modified an existing system of records, FCC/OGC-3, Adjudication of Internal Complaints against Employees, subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the Federal Register notice of the existence and character of records maintained by the Agency. The Office of the General Counsel (OGC) uses the personally identifiable information (PII) in this system for purposes that include, but are not limited to settlement negotiations with opposing parties and to prepare for litigation before an administrative body or a court of appropriate jurisdiction.

DATES: This action will become effective on [INSERT DATE OF PUBLICATION]. The routine uses in this action will become effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] unless comments are received that require a contrary determination.

ADDRESSES: Send comments to Leslie F. Smith, Privacy Manager, Information Technology (IT), Room 1-C216, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554, or to Leslie.Smith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, (202) 418-0217, or Leslie.Smith@fcc.gov (and to obtain a copy of the Narrative Statement and the Supplementary Document, which includes details of the proposed alterations to this system of records).

SUPPLEMENTARY INFORMATION: This notice serves to update and amend FCC/OGC-3, Adjudication of Internal Complaints against Employees, as a result of an increased use of

electronic information technology. The substantive changes and modifications to the previously published version of the FCC/OGC-3 system of records include:

1. Updating the language in the Security Classification to follow with OMB guidance.
2. Minor changes to the Purposes, Categories of Individuals, and Categories of Records to be consistent the language and phrasing now used in the FCC's SORNs.
3. Deletion of two routine uses: (2) Public Access since releases under the FOIA are covered by 5 U.S.C. 552a(b)(2), so a separate routine use for them is not needed; and (6) Employment, Clearances, Licensing, Contract, Grant, or other Benefits Decisions by other than the agency, and its replacement with a new routine use: (5) For Certain Disclosures to Other Agencies to make information available to another Federal agency.
4. Updating language and/or renumbering seven routine uses: (1) Adjudication and Litigation; (2) Law Enforcement and Investigation; (3) Congressional Inquiries; (4) Government-wide Program Management and Oversight; (6) Employment, Clearances, Licensing, Contract, Grant, or other Benefits Decisions by the FCC; and (7) Labor Relations.
5. Adding three other new routine uses: (8) Breach Notification to address the Commission's real or suspected data breach situations; (9) Assistance to Federal Agencies and Entities for assistance with other Federal agencies' data breach situations; and (10) For Non-Federal Personnel to allow contractors performing or working on a contract for the Federal Government access to information. Routine Uses (8) and (9) are required by OMB Memorandum-17-12.

The system of records is also updated to reflect various administrative changes related to the system managers and system addresses; policy and practices for storage, retrieval, and retention and disposal of the records; administrative, technical, and physical safeguards; and updated notification, records access, and contesting records procedures.

SYSTEM NAME AND NUMBER:

FCC/OGC-3, Adjudication of Internal Complaints against Employees.

SECURITY CLASSIFICATION:

No information in this system is classified.

SYSTEM LOCATION:

Office of General Counsel (OGC), Federal Communications Commission (FCC), 445 12th Street, SW, Washington, DC 20554.

SYSTEM MANAGER(S) AND ADDRESS:

Office of General Counsel (OGC), Federal Communications Commission (FCC), 445 12th Street, SW, Washington, DC 20554.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S) OF THE SYSTEM:

Staff attorneys in the Office of General Counsel (OGC) use these records for purposes including, but not limited to settlement negotiations with opposing parties and to prepare for litigation before an administrative body or a court of appropriate jurisdiction.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any FCC employee who files or is the subject of a complaint investigation involving internal personnel actions or activities, which include but are not limited to discrimination, grievance, political activity, separation, or adverse action.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system of records involves internal personnel disputes that have reached the litigation stage, and may include but are not limited to correspondence, memoranda, transcripts of hearings, briefs, pleadings, investigative reports, and decisions of hearing examiners and Commissioners.

RECORD SOURCE CATEGORIES:

The sources for the information in this system of records include but are not limited to:

- (a) Individuals filing such claims; the individuals who are the subjects of such claims;
- (b) Attorneys or representatives of the claimants and the subjects of the claims;
- (c) Communication between FCC organizational units; and

- (d) Investigative materials and related documentation and decisions involved in but not limited to appeals, amendments, and litigation concerning such claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows. In each of these cases, the FCC will determine whether disclosure of the records is compatible with the purpose(s) for which the records were collected:

1. **Adjudication and Litigation** – To disclose information to the Department of Justice (DOJ), or other administrative body before which the FCC is authorized to appear, when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where DOJ or the FCC has agreed to represent the employee; or (d) the United States is a party to litigation or has an interest in such litigation, and the use of such records by DOJ or the FCC is deemed by the FCC to be relevant and necessary to the litigation.
2. **Law Enforcement and Investigation** – To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the FCC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.
3. **Congressional Inquiries** – To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.
4. **Government-wide Program Management and Oversight** – To disclose information to the National Archives and Records Administration (NARA) for use in its records management inspections; to the Government Accountability Office (GAO) for oversight purposes; to the

Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

5. For Certain Disclosures to Other Federal Agencies – To disclose information to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a suitability or security investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.
6. Employment, Clearances, Licensing, Contract, Grant, or other Benefits Decisions by the Agency – To disclose information to a Federal, State, local, foreign, tribal, or other public agency or authority maintaining civil, criminal, or other relevant enforcement records, or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to an investigation concerning the hiring or retention of an employee or other personnel action, the issuance or retention of a security clearance, the classifying of jobs, the letting of a contract, or the issuance or retention of a license, grant, or other benefit by the Commission, to the extent that the information is relevant and necessary to the requesting agency's decisions on the matter.
7. Labor Relations – To disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 upon receipt of a formal request and in accord with the conditions of 5 U.S.C. 7114 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.
8. Breach Notification – To appropriate agencies, entities, and persons when: (a) the Commission suspects or has confirmed that there has been a breach of the system of records; (b) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems,

programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

9. Assistance to Federal Agencies and Entities – To another Federal agency or Federal entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
10. For Non-Federal Personnel – To disclose information to contractors performing or working on a contract for the Federal Government.

REPORTING TO A CONSUMER REPORTING AGENCY:

In addition to the routine uses cited above, the Commission may share information from this system of records with a consumer reporting agency regarding an individual who has not paid a valid and overdue debt owed to the Commission, following the procedures set out in the Debt Collection Act, 31 U.S.C. 3711(e).

POLICIES AND PRACTICES FOR STORING OF RECORDS:

Information in this system includes both paper and electronic records. The paper records, documents, and files are maintained in file cabinets that are located in OGC and in the bureaus and offices (B/Os) of the FCC staff who provide the responses to such claims. The electronic records, files, and data are stored in the FCC's computer network.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by the name of the subject individual in the investigation.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with the agency records control schedules

NC1-173-84-05, Item 3 and N1-173-91-001, Item 6, both of which have been approved by the National Archives and Records Administration (NARA).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The file cabinets containing paper records in this system are maintained in file cabinets in “non-public” rooms in the OGC and B/O suites. The OGC and B/O file cabinets are locked at the end of the business day. Access to these office suites is through card-coded main doors. Only authorized OGC and B/O supervisors and staff who are responsible for responding to these claims, have access to these paper records.

The electronic records, files, and data are housed in the FCC’s computer network. Access to the electronic files is restricted to OGC and B/O staff who are responsible for responding to such claims, and to the IT staff and contractors who maintain the FCC’s computer network. Other FCC employees and contractors may be granted access on a “need-to-know” basis. The FCC’s computer network databases are protected by the FCC’s IT privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal IT privacy standards, including those required by the National Institute of Standards and Technology (NIST) and the Federal Information Security Modernization Act of 2014 (FISMA).

NOTIFICATION PROCESS:

Individuals wishing to determine whether this system of records contains information about them may do so by writing to Leslie F. Smith, Privacy Manager, Information Technology, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, or e-mail Leslie.Smith@fcc.gov.

Individuals must furnish reasonable identification by showing any two of the following: social security card; driver’s license; employee identification card; Medicare card; birth certificate; bank credit card; or other positive means of identification, or by signing an identity statement stipulating that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to \$5,000.

Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity and access to records (47 CFR Part 0, Subpart E).

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to and/or amendment of records about them should follow the Notification Procedure above.

CONTESTING RECORD PROCEDURE:

Individuals wishing to request an amendment of records about them should follow the Notification Procedure above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The FCC last gave full notice of this system of records, FCC/OGC-3, Adjudication of Internal Complaints against Employees, by publication in the Federal Register on April 5, 2006 (71 FR 17234, 17243).

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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